

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES

v.

DANIEL KAMEN,  
Defendant.

CRIMINAL 04-10384-PBS

**MEMORANDUM AND ORDER**

January 19, 2007

Saris, U.S.D.J.

Pursuant to Fed. R. Crim. P. 33, I **ALLOW** defendant's motion for a new trial in the interest of justice. After a review of the evidence, the stipulation, the jury question and the caselaw, I conclude that as a matter of law and discretion, I should have given the requested instruction on the lesser-included offense of knowing possession of child pornography for the reasons stated at the hearing. I **DENY** the defendant's motion for judgment of acquittal pursuant to Fed. R. Crim. P. 29(c). Defendant has filed a motion to vacate the receipt conviction and to enter a judgment of guilty on the lesser included offense of possession. I defer ruling on this motion because I need oral argument and better briefing from the parties in light of my other two rulings. A full written opinion will issue if necessary.



PATTI B. SARIS

United States District Judge